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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/646,879	08/21/2003	Julian P. Trangsrud	20030159.ORI	1023
23595	7590	07/27/2004		
NIKOLAI & MERSEREAU, P.A. 900 SECOND AVENUE SOUTH SUITE 820 MINNEAPOLIS, MN 55402			EXAMINER SALDANO, LISA M	
			ART UNIT 3673	PAPER NUMBER

DATE MAILED: 07/27/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/646,879	TRANGSRUD, JULIAN P.
Examiner	Lisa M. Saldano	Art Unit 3673

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE \_\_\_\_ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 21 August 2003.

2a)  This action is **FINAL**.                            2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

4)  Claim(s) 1-5 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5)  Claim(s) \_\_\_\_\_ is/are allowed.  
6)  Claim(s) 1-5 is/are rejected.  
7)  Claim(s) \_\_\_\_\_ is/are objected to.  
8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152

**Priority under 35 U.S.C. § 119**

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a))

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 8/21/2003.

4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.  
5)  Notice of Informal Patent Application (PTO-152)  
6)  Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 112*

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 5 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Specifically, the applicant recites limitations wherein "...alignment member has a spacer portion for extending the hole former to the invert mold pipe portion..." It is not clear how the alignment member, which is a separate part from the hole portion, can extend the hole former. Furthermore, Fig. 8, which shows a spacer portion 124, illustrates the alignment member mated with the invert mold pipe portion. It appears that the applicant intends to convey that the *hole formed* by the invention is extended, not the hole former. Please clarify.

### *Claim Objections*

3. Claims 3-5 are objected to because of the following informalities:

Regarding claim 3, line 3, the applicant recites limitations directed to "the spacer." However, prior claim language from which this limitation depends does not mention a spacer.

Regarding claim 4, line 3, the applicant recites limitations directed to "the invert." It appears that the applicant intended to state "the invert mold." Please clarify.

Regarding claim 5, line 2, it appears that the applicant should include the word "the" before the phrase "alignment member."

Appropriate correction is required.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moore (3,363,876) in view of Ditcher (4,565,347).

Moore discloses a manhole base molding apparatus 78 (see Figs.5-7) comprising an invert mold 82 having an invert pipe portion 84. Moore further discloses a hole former 88 having an alignment member 86 with an aperture along the central axis of the alignment member 86 that receives a bar or bolt 100 for aligning the hole former 88 with the invert mold 82. Moore illustrates a recessed portion of the invert mold 82 wherein the bar or bolt 100 is inserted for subsequent alignment of the hole former with the invert mold 82. The hole former has a male portion that mates with a female portion of the alignment member (see Fig.7).

Regarding claim 2, Moore discloses a manhole base molding apparatus wherein the hole former 88 and alignment member 86 are integral or formed as a unit with each other.

Regarding claim 4, Moore discloses a manhole base molding apparatus wherein a bolt 100 comprises a threaded portion that engages a threaded nut in the recessed portion of the invert mold 82 (see Fig.7).

Regarding claim 5, Moore discloses a manhole base molding apparatus wherein the alignment member 86 functions as a spacer portion for extending the hole formed by the hole former to the invert mold 82.

However, Moore fails to disclose that the invert mold has a tube aligned on the central axis of the invert pipe portion. Moore also fails to disclose that the hole former has a female portion that mates with a male portion of the alignment member.

Ditcher discloses a precast invert system for creating a manhole comprising an invert forming mold member 14 with a tube or internal guideway 29 aligned on the central axis of the invert pipe portion (see Fig.3), a hole former 16, and a bar or pin 26 for inserting in the tube 29 for aligning the hole former with the invert mold.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the molding apparatus of Moore to incorporate a tube aligned on the central axis of the invert pipe portion for purposes of alignment, as taught by Ditcher, because both invention suggest alignment bars and tubes or apertures for guiding the alignment bars within portions of the mold to ultimately end up with aligned openings within a manhole. Moore simply chose to locate his alignment bar off center relative to the invert mold, as opposed to Ditcher's centrally

located alignment bar. Ultimately, the functional principles are the same and the locations are merely issues of design choice.

Furthermore, regarding claim 3, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the molding apparatus of Moore to incorporate a hole former with a female portion that mates with a male portion of the alignment member because Moore clearly illustrates a hole former with a male portion that mates with a female portion of the alignment member. Reversal of the female and male portions, as claimed by the applicant of the present invention, is merely a matter of design choice.

### ***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Keyser (3,727,876), Ditcher (4,941,643), Transgrud (6,226,928), Banks (5,806,829) and Westhoff et al (6,651,949) disclose features that are pertinent to the present application.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lisa M. Saldano whose telephone number is 703-605-1167. The examiner can normally be reached on Monday-Friday, 8:30am-5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather C. Shackelford can be reached on 703-308-2978. The fax number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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